



DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Exemption Application No. D-12089]

Proposed Exemption for Certain Prohibited Transaction Restrictions Involving UBS AG (UBS) and Credit Suisse Group AG (CSAG), Located in Zurich, Switzerland

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: The Department previously issued several temporary individual prohibited transaction exemptions (PTEs) that allow certain asset managers related to UBS and CSAG (the UBS QPAMs, CS Affiliated QPAMs, and the CS Related QPAMs, as further defined below) to continue to rely on the exemptive relief provided by Prohibited Transaction Class Exemption (PTE) 84-14, notwithstanding five judgments of convictions involving entities within the UBS and CSAG corporate umbrellas, as described below (the Convictions). The most recent individual exemptions are PTE 2020-01 (for UBS) and PTE 2022-01 for (CSAG). Those individual exemptions will no longer be available following the upcoming merger between CSAG and UBS (the Merger). This exemption would allow the UBS QPAMs, CS Affiliated QPAMs and the CS Related QPAMs to continue to rely on PTE 84-14 as of the date of the Merger if certain conditions are met. As described below, this individual exemption is necessary to preserve the ability of the QPAMs to engage in the transactions permitted by PTE 84-14, which would be lost due solely to the impending merger of UBS and Credit Suisse (and not because of a new conviction for either UBS or Credit Suisse or their affiliates). If granted, the exemption will be for one year. This limited duration reflects the lack of

information before the Department regarding the effects the Merger will have on the UBS QPAMs and CS Affiliated and Related QPAMs.

DATES: Applicability Date: If granted, this proposed exemption will be in effect for one year beginning on the date of the Merger.

Comments due: Written comments and requests for a public hearing on the proposed exemption should be submitted to the Department by [INSERT DATE 6 DAYS FROM DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: All written comments and requests for a hearing should be sent to the Employee Benefits Security Administration (EBSA), Office of Exemption Determinations, Attention: Application No. D-12089 via email to e-OED@dol.gov or online through <https://www.regulations.gov>. Any such comments or requests should be sent by the end of the scheduled comment period. The application for exemption and the comments received will be available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N-1515, 200 Constitution Avenue, N.W., Washington, D.C. 20210. See

SUPPLEMENTARY INFORMATION below for additional information regarding comments.

FOR FURTHER INFORMATION CONTACT: Joseph Brennan of the Department at (202) 693-8456. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Comments:

It is the Department's understanding that the Merger is due to occur by the end of May 2023. Due to this time constraint, persons are encouraged to submit all comments electronically and not to follow with paper copies. Comments should state the nature of the person's interest in the proposed exemption and the manner in which the person would be adversely affected by the exemption, if granted. Any person who may be

adversely affected by an exemption can request the Department to hold a hearing on the exemption. A request for a hearing must state: (1) The name, address, telephone number, and email address of the person making the request; (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption; and (3) a statement of the issues to be addressed and a general description of the evidence to be presented at the hearing. The Department will grant a request for a hearing made in accordance with the requirements above where a hearing is necessary to fully explore material factual issues identified by the person requesting the hearing. A notice of such hearing shall be published by the Department in the *Federal Register*. The Department may decline to hold a hearing if: (1) The request for the hearing does not meet the requirements above; (2) the only issues identified for exploration at the hearing are matters of law; or (3) the factual issues identified can be fully explored through the submission of evidence in written (including electronic) form.

WARNING: All comments received will be included in the public record without change and may be made available online at <https://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be confidential or other information whose disclosure is restricted by statute. If you submit a comment, EBSA recommends that you include your name and other contact information in the body of your comment, but DO NOT submit information that you consider to be confidential, or otherwise protected (such as Social Security number or an unlisted phone number) or confidential business information that you do not want publicly disclosed. However, if EBSA cannot read your comment due to technical difficulties and cannot contact you for clarification, EBSA might not be able to consider your comment. Additionally, the <https://www.regulations.gov> website is an “anonymous access” system, which means EBSA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email directly to EBSA without

going through <https://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public record and made available on the Internet.

Background:

UBS and CSAM have represented that they are unable to provide the Department with a complete exemption application due to the exigent circumstances giving rise to the Merger. Accordingly, this proposed exemption would require UBS, as the entity surviving the Merger, to provide the Department with a written report every 120 days following the Merger (the Merger Report), containing full and complete updates regarding the Merger. In the Merger Report, UBS must identify any material omissions and correct any inaccuracies in the Summary of Facts and Representations as set forth below. The Merger Report will be available to the public through EBSA's Public Disclosure Office, and to Covered Plan fiduciaries via a link provided by the relevant Affiliated QPAM.¹ Additionally, in its first Merger Report to the Department, UBS must: (1) identify the QPAMs using this exemption as the date of the Report; (2) provide details regarding the extent to which the Credit Suisse Affiliated QPAMs have been integrated into UBS's operations and any other relevant changes with respect to any QPAMs that are using this exemption; (3) any operational or other changes that impact any requirements under this exemption; and (4) detailed information regarding the costs

¹ The term "Covered Plan" means a plan subject to Part IV of Title I of ERISA (an "ERISA-covered plan") or a plan subject to Code section 4975 (an "IRA"), in each case, with respect to which an Affiliated QPAM relies on PTE 84-14, or with respect to which an Affiliated QPAM (or any CSAG or UBS affiliate) has expressly represented that the manager qualifies as a QPAM or relies on PTE 84-14. A Covered Plan does not include an ERISA-covered plan or IRA to the extent the Affiliated QPAM has expressly disclaimed reliance on QPAM status or PTE 84-14 in entering into a contract, arrangement, or agreement with the ERISA-covered plan or IRA. Notwithstanding the above, an Affiliated QPAM may disclaim reliance on QPAM status or PTE 84-14 in a written modification of a contract, arrangement, or agreement with an ERISA-covered plan or IRA, where: the modification is made in a bilateral document signed by the client; the client's attention is specifically directed toward the disclaimer; and the client is advised in writing that, with respect to any transaction involving the client's assets, the Affiliated QPAM will not represent that it is a QPAM, and will not rely on the relief described in PTE 84-14.

to ERISA-covered Plans and IRAs (together, Covered Plans) that would arise if this one-year exemption is not renewed.

Department Warning: The Department notes that this proposed exemption's abridged notice and comment period is due to the exigent circumstances that are necessitating the Merger and the fact that the parties to the Merger have existing QPAM exemptions in place. The Department clarifies that future QPAM applicants should expect to provide a full notice and comment period to ensure that ERISA-covered plans and their participants and beneficiaries are adequately protected.

This proposed exemption would provide relief from certain of the restrictions set forth in ERISA Sections 406 and 407. No relief from a violation of any other law would be provided by this exemption, including any criminal conviction described herein. The Department stresses that this proposed exemption would provide Covered Plans and Affiliated QPAMs and Related QPAMs with the ability to rely on PTE 84-14 for one year and that this proposed exemption, if granted, will terminate at the end of that one-year period.

Covered Plan fiduciaries are strongly cautioned that the Department might not extend this one-year exemption following its expiration due to the significant number of convictions and the seriousness of the underlying conduct of the tainted entities that will now reside together within the UBS corporate umbrella following the Merger. In this regard, Covered Plan fiduciaries should be aware that the Department will not extend this exemption beyond the proposed one-year term unless, among other things, UBS submits an application with detailed written information to the Department substantially in advance of the expiration of this one-year term that is sufficient for the Department to make its findings under ERISA Section 408(a) that an extension of this exemption is in the interest and protective of affected Covered Plans, and administratively feasible.

The Department cautions that the relief in this proposed exemption would terminate immediately if an affiliate of UBS's (as defined in Section VI(d) of PTE 84-14) is convicted of a crime described in Section I(g) of PTE 84-14 (other than the Convictions) during the effective period of the exemption. While such an entity could apply for a new exemption in that circumstance, the Department would not be obligated to propose such an exemption. The Department might also consider developing an individual exemption on its own motion that would protect affected Covered Plans by permitting some, but not all, of the transactions covered by PTE 84-14. If the Department took that approach, the UBS/CSAG affiliated entities would no longer rely on or reference PTE 84-14 for relief, but rather would rely on the new individual exemption for any relief, which would not be based on their status as QPAMs status under PTE 84-14. The Department invites comments regarding this possible individual exemption.

The terms of this proposed one-year exemption have been designed to permit plans to terminate their relationships with the Affiliated QPAMs and the Related QPAMs in an orderly and cost-effective fashion in the event of an additional conviction or a determination by a plan that it is otherwise prudent to do so.

SUMMARY OF FACTS AND REPRESENTATIONS²

Credit Suisse Group AG

² The Summary of Facts and Representations is based on UBS and CSAM's representations and does not reflect factual findings or opinion of the Department, unless indicated otherwise. The Department notes that availability of this exemption is subject to the express condition that the material facts and representations made by UBS and CSAM are true, complete, and accurately describe all material terms of the transaction(s) covered by the exemption. If there is any material change in a transaction covered by the exemption, or in a material fact or representation that is part of the record attributable to D-12089, the exemption will cease to apply as of the date of the change. The record attributable to D-12089 include the representations in paragraph 18 below. As discussed above and below, the exemption requires UBS and/or CSAG to submit a Merger Report to the Department every 120 days following the Merger, containing all relevant details of the Merger. In the report, UBS and/or CSAG must identify any material omissions in this Summary and correct any inaccuracies in the Summary. The Merger Report will be available to the public through EBSA's Public Disclosure Office and to Covered Plan fiduciaries via a link provided by the relevant Affiliated QPAM.

1. CCSG is currently a publicly-traded corporation headquartered in Zurich, Switzerland that owns a 100% interest in Credit Suisse AG (CSAG). Currently, two Credit Suisse asset management affiliates, Credit Suisse Asset Management, LLC (CSAM LLC) and Credit Suisse Asset Management Limited (CSAM Ltd.) (together, the CS Affiliated QPAMs), manage the assets of ERISA-covered plans and IRAs (together, Covered Plans, as further defined below) on a discretionary basis.

2. CSAG also owns a five percent or more interest in certain other entities that may provide investment management services to plans but that are not affiliates of CSAG (the CS Related QPAMs).

UBS AG

3. UBS AG (UBS) is a Swiss-based global financial services company organized under the laws of Switzerland. UBS Asset Management (Americas) Inc., UBS Realty Investors LLC, UBS Hedge Fund Solutions LLC, and UBS O'Connor LLC are currently the four UBS affiliates that rely on PTE 84-14 (the UBS QPAMs).

Relevant ERISA Provisions and PTE 84-14

4. The rules set forth in ERISA section 406 and Code section 4975(c)(1) proscribe certain “prohibited transactions” between plans and related parties with respect to those plans. Under ERISA section 3(14), such parties are known as “parties in interest” with respect to a plan, and include, among others, the plan fiduciary, a sponsoring employer of the plan, a union whose members are covered by the plan, service providers with respect to the plan, and certain of their affiliates.³

5. The prohibited transaction provisions under ERISA Section 406(a) and Code Section 4975(c)(1) prohibit, in relevant part, sales, leases, loans or the provision of services between a party in interest and a plan (or an entity whose assets are deemed to

³ Under the Code, such parties, or similar parties, are referred to as “disqualified persons.”

constitute the assets of a plan), as well as the use of plan assets by or for the benefit of, or a transfer of plan assets to, a party in interest.⁴ Under ERISA Section 408(a) and Code Section 4975(c)(2), the Department has the authority to grant exemptions from such “prohibited transactions” in accordance with the procedures set forth in 29 CFR part 2570, subpart B (76 FR 66637, 66644, October 27, 2011) if the Department finds that an exemption is (i) administratively feasible; (ii) in the interests of the plan and of its participants and beneficiaries; and (iii) protective of the rights of participants and beneficiaries. PTE 84-14 reflects the Department’s conclusion that it could provide broad relief from the prohibited transaction provisions of ERISA Section 406(a) and Code Section 4975(c)(1) only if the commitments and the investments of plan assets and the negotiations leading thereto, are the sole responsibility of an independent discretionary manager the meets the exemption’s conditions.

6. Section I(g) of PTE 84-14 prevents an entity that may otherwise meet the definition of a QPAM from utilizing the exemptive relief provided by PTE 84-14 for itself and its client plans, if that entity or an “affiliate” thereof,⁵ or any owner, direct or indirect, of a 5 percent or more interest in the QPAM has within 10 years immediately preceding the transaction, been either convicted or released from imprisonment, whichever is later, as a result of criminal activity described in that section.

7. The inclusion of Section I(g) in PTE 84-14 is, in part, based on an expectation that QPAMs will maintain a high standard of integrity. This expectation extends not only

⁴ The prohibited transaction provisions also include certain fiduciary prohibited transactions under ERISA section 406(b) and Code section 4975(c)(1)(E) and (F). These include transactions involving fiduciary self-dealing, fiduciary conflicts of interest, and kickbacks to fiduciaries. PTE 84-14 provides only very narrow conditional relief for transactions described in ERISA section 406(b).

⁵ Section VI(d) of PTE 84-14 defines the term “affiliate” for purposes of Section I(g) as “(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person, (2) Any director of, relative of, or partner in, any such person, (3) Any corporation, partnership, trust or unincorporated enterprise of which such person is an officer, director, or a 5 percent or more partner or owner, and (4) Any employee or officer of the person who—(A) Is a highly compensated employee (as defined in Section 4975(e)(2)(H) of the Code) or officer (earning 10 percent or more of the yearly wages of such person), or (B) Has direct or indirect authority, responsibility or control regarding the custody, management or disposition of plan assets.”

to the QPAM itself but also to those who may be in a position to influence the policies of the QPAM.

The CSAG Conviction

8. On May 19, 2014, the Tax Division of the United States Department of Justice (DOJ) and the U.S. Attorney's Office for the Eastern District of Virginia filed a one-count criminal information (the CSAG Information) in the District Court for the Eastern District of Virginia charging CSAG with a conspiracy to violate Code section 7206(2) in violation of Title 18, United States Code, Section 371. According to the Statement of Facts, for decades before and through approximately 2009 CSAG operated an illegal cross-border banking business that knowingly and willfully aided and assisted thousands of U.S. clients in opening and maintaining undeclared accounts that concealed offshore assets and income from the IRS. On May 19, 2014, pursuant to a plea agreement (the Plea Agreement), CSAG entered a plea of guilty for assisting U.S. citizens in federal income tax evasion. The District Court entered a judgment of conviction against CSAG on November 21, 2014.

The CSSEL Conviction

9. On October 19, 2021, the DOJ, Criminal Division, Money Laundering and Asset Recovery Section and Fraud Section, and the United States Attorney's Office for the Eastern District of New York, filed a criminal information in the District Court for the Eastern District of New York charging CSSEL with one count of conspiracy to commit wire fraud in violation of 18 U.S.C. 1349. CSSEL agreed to resolve the action through a plea agreement presented to the New York District Court on October 19, 2021 (the CSSEL Plea Agreement). Under the CSSEL Plea Agreement, CSSEL agreed to enter a plea of guilty to the charge set out in the CSSEL Information (the CSSEL Plea). On October 19, 2021, in connection with the CSSEL Plea, the ultimate parent of CSSEL,

CSG, entered into a Deferred Prosecution Agreement (the DPA) with the Criminal Division, Money Laundering and Asset Recovery Section and Fraud Section of the DOJ and the United States Attorney's Office for the Eastern District of New York.

The District Court entered a judgment of conviction against CSSEL on July 22, 2022.

The 2013 and 2018 UBS Convictions

10. UBS Securities Japan was previously convicted (2013 Conviction) of a crime arising out of its fraudulent submission of Yen London Interbank Offer Rate (Yen LIBOR) rates between 2006 and 2009, and its participation in a scheme to defraud counterparties to interest rate derivatives trades executed on its behalf, by secretly manipulating certain benchmark interest rates to which the profitability of those trades was tied.

11. Although UBS and the United States Department of Justice (DOJ) entered into a Non-Prosecution Agreement (the LIBOR NPA) related to UBS's misconduct involving its submission of Yen LIBOR rates and other benchmark rates between 2001 and 2010, the DOJ subsequently determined that UBS had breached the LIBOR NPA, among other things, by engaging in deceptive currency trading and sales practices with respect to certain foreign exchange (FX) market transactions and collusive conduct in certain FX markets (FX Misconduct). UBS entered a guilty plea and was convicted (the 2018 Conviction) of a crime arising out of UBS's scheme to defraud counterparties to interest rate derivatives transactions by secretly manipulating benchmark interest rates to which the profitability of those transactions was tied.

The 2019 UBS French Conviction

12. In 2013, France opened an investigation into UBS, UBS France, and certain former employees of UBS France S.A. The investigation centered on the maintenance of foreign ("cross-border") UBS bank accounts held for private citizens. Following a trial in

the French First Instance Court, UBS and UBS France were convicted of illegally soliciting clients from 2004 to 2012 and laundering the proceeds of tax fraud from 2004 to 2012.

Prior Exemptions

13. To protect Covered Plans from the costs and harms that could arise if the UBS QPAMs and the Credit Suisse Affiliated and CS Related QPAMs lost their ability to engage in potentially beneficial transactions on behalf of the Covered Plans due to the convictions identified above (the Convictions), the Department issued a number of temporary individual exemptions. Several of these exemptions were extensions of prior temporary exemptions. In connection with the Credit Suisse-related convictions, the Department issued the following exemptions: PTE 2022-01 (87 FR 1186 (Jan. 10, 2022)); PTE 2019-07 (84 FR 61928 (Nov. 14, 2019)); PTE 2015-14 (80 FR 59817 (Oct. 2, 2015)); PTE 2014-11 (79 FR 68716 (Nov. 18, 2014)). In connection with the UBS-related convictions, the Department issued: PTE 2020-01 (85 FR 8020 (Feb. 12, 2020)); PTE 2019-01 (84 FR 6163 (Feb. 26, 2019)); PTE 2017-07 (82 FR 61903 (Dec. 29, 2017)); PTE 2016-17 (81 FR 94049 (Dec. 22, 2016)); PTE 2013-09 (78 FR 56740 (Sep. 13, 2013)).

Proposed Merger

14. The Department learned from recent news reports that UBS was acquiring CSAG in a stock purchase. Representatives of CSAM and UBS confirmed the impending Merger in a telephone call with the Department on March 21, 2023, but the representatives stated that few additional details were available at that time. The Department understands through these representatives that the Merger will involve UBS acquiring CSAG in a stock sale that will occur on or about May 31, 2023.

15. The most recent exemption the Department granted for UBS, PTE 2020-01, permits the UBS QPAMs to continue to rely on PTE 84-14 only if, among other things, UBS and its affiliates have not been convicted of a crime described in Section I(g) of PTE 84-14 over the prior 10 years, other than the UBS-related convictions described above. The Department expects that, following the Merger, UBS will be affiliated with CSAG and CSSEL, and the convictions attributable to UBS and CSAG (which are covered by PTE 2022-01) will result in a violation of PTE 2020-01. It is therefore the Department's expectation that following the Merger, UBS will no longer be able to rely on PTE 2020-01. In order to protect Covered Plans that could be harmed from the sudden loss of PTE 2020-01 and PTE 2022-01 due to the Merger, the relief in this exemption is effective as of the date of the Merger. Accordingly, if the Merger occurs prior to the date this exemption is granted, the relief in the exemption will be retroactive to the date of the Merger.

16. On April 17, 2023, UBS and CSAM (and their affiliated QPAMs) submitted a request to modify their existing exemptions. In their request, UBS and CSAM stated that, following the Merger, "it is important that the combined bank be able to continue the asset management businesses that the two banks currently maintain independently, including their subsidiaries' QPAM services." UBS and CSAM proposed "separate somewhat harmonized, exemptions because at this time it is not clear when, and how, the Credit Suisse QPAMs will be restructured within the UBS structure after closing." The modifications sought by UBS and CSAM would have allowed the affected QPAMs to rely on their existing exemptions subject to essentially the same conditions, while expanding the number of Convictions covered by each exemption. UBS and CSAM state that, among other things, "The largely ministerial modifications [CSAM and UBS] are proposing are essential given the change in [UBS and CSAM's] circumstances to ensure

that these exemptions remain administratively feasible and available for the QPAMs' use as they serve plans and participants and beneficiaries.”

17. Similarly, following the Merger, the Department does not expect that the CS Affiliated QPAMs and the CS Related QPAMs would be able to rely on PTE 2022-01, because that individual exemption permits them to continue to rely on PTE 84-14 only if, among other things, CSAG and its affiliates are not convicted of a crime described in Section I(g) of PTE 84-14 other than the CSAG and CSSEL convictions described above during the prior 10 years. The Department understands that following the Merger, CSAG will be affiliated with UBS, UBS Securities Japan, and UBS France, and will be accountable for the convictions attributable to those entities in violation of PTE 2022-01. Therefore, the Department is proposing this exemption to protect Covered Plans from the costs and harms that could arise if the CS QPAMs and CS Related QPAMs can no longer rely on PTE 2022-01 as of the date of the Merger, solely as a result of the Merger and not due to any new convictions. As noted above, if this exemption is granted after the date of the Merger, the relief in the exemption will be retroactive to the date of the Merger. The Department notes that this proposal is contingent on there being a Merger, and if the Merger does not happen, any granted exemption will have no effect.

Harm to Covered Plans in the Absence of QPAM Relief⁶

18. CSAM represents that if the Credit Suisse QPAMs lose the ability to rely upon PTE 84-14, the Covered Plan clients of those QPAMs would suffer the time and expense of finding replacement asset managers where they otherwise might not choose to do so. Further, transactions currently dependent on the QPAM Exemption would be in

⁶ CSAM submitted these representations to the Department on March 16, 2023, in connection with an exemption application submitted by CSAM (the CSAM Application), for the CS Affiliated and Related QPAMs to continue to rely upon PTE 84-14 beyond the one-year term of their current individual exemption (PTE 2022-01), which expires on the earlier of July 21, 2023, or the date of the Merger. The CSAM Application was submitted to the Department before the Merger was announced. The Department closed the CSAM Application upon receipt of the CSAM and UBS modification request discussed herein. The CSAM Application and supporting documents are available to the public through EBSA's Public Disclosure Office, by referencing D-12089.

default, and counterparties may provide less advantageous pricing or not bid at all, because the plan's investment manager is not a QPAM. Credit Suisse submits that Covered Plans that choose to remain with CSAM following CSAM's loss of QPAM relief would have a circumscribed set of transactions available to them, or their transactions could be more expensive because of the preference that counterparties have for transacting business with QPAMs.

CSAG states that CSAM's Commodities team provides exposure to a variety of commodity benchmarks, and CSAM's Credit Investment Group manages leveraged loans and special situations credit across a broad spectrum of products. For CSAM's credit strategy, the loans purchased by plans contain representations that the QPAM Exemption is applicable to the transaction. According to CSAG, all loan documentation would have to be changed if QPAM relief is lost, and all of the loan agents would have to agree to accept another applicable exemption. For the commodities strategy, the guidelines for this strategy include cleared derivatives, which also depend upon PTE 84-14 for exemptive relief.

CSAG submits that Covered Plans who have hired CSAM are managed by fiduciaries acting in the best interest of their respective plans. Those fiduciary obligations and the decisions to use CSAM for the plans' asset management needs are based on a number of factors, including investment performance, the perceived skill of CSAM's portfolio managers, and risk management.

In its request for modifications to its existing exemption, UBS states that the requested modifications will help ensure that the QPAMs continue to operate without disruption to their plan clients, which in turn is necessary for UBS and CSAM to successfully complete the merger.

19. The Department is proposing this exemption to protect Covered Plans from the costs and harms that could arise if the UBS QPAMs were no longer able to rely on PTE 2020-01 as of the date of the Merger.

Department's Note: The Department is requesting detailed information from UBS and CSAG regarding the costs and harms to Covered Plans, if any, that could arise if the UBS QPAMs and the CS QPAMs can no longer rely on PTE 2020-01 and PTE 2022-01 following the Merger. The Department cautions Covered Plan fiduciaries that if UBS and CSAG do not submit detailed and reliable information in this regard, the Department will not extend the relief in this exemption beyond one year. Covered Plan fiduciaries are also cautioned that the purpose of the one-year exemption would be to allow Covered Plans to avoid the costs and disruption to investment strategies that may suddenly arise if the Covered Plans are forced to hire a different QPAM or asset manager on short notice, because their current QPAM is no longer able to rely on the relief provided by PTE 84-14 due to the Merger/Convictions. The Department's decision to propose this exemption is in no way an indication that the UBS QPAMs and the CS Affiliated QPAMs will receive additional exemptive relief. As the Department stated above, considering the number of Convictions and the severity of the associated misconduct, it is possible that the Department will not grant additional relief if UBS is convicted of another crime that is not covered under this exemption, or if evidence of additional misconduct is forthcoming.

This Proposed Exemption

20. Upon learning of the impending Merger and given the lack of information immediately available from CSAG and UBS, in the interest of protecting plans, participants and beneficiaries, the Department began developing this proposed exemption on its own motion. UBS submitted an exemption modification request on April 17, 2023. However, the Department was unable to determine that the terms of the modifications

sought by Credit Suisse and UBS would be sufficiently protective of affected Covered Plans. Accordingly, the Department has developed this exemption primarily on its own motion, based on its understanding of the facts associated with the Merger made by Credit Suisse and UBS representatives.

Summary of the Exemption's Protective Conditions

21. In developing administrative exemptions under ERISA section 408(a), the Department implements its statutory directive to grant only exemptions that are appropriately protective of, and in the interest of, affected plans and IRAs. The Department is proposing this exemption with protective conditions that would protect Covered Plans (and their participants and beneficiaries) and allow them to continue to benefit from the transactions described in PTE 84-14. The Department notes that this exemption includes all the conditions imposed upon CSAG and UBS in their most recent individual exemptions and expands on some conditions by making certain that conditions previously applicable only to the UBS QPAMs also apply to the CS Affiliated QPAMs and vice versa. This proposed exemption also includes certain stronger conditions that the Department has included in its most recent QPAM exemptions that were not included in the prior UBS and CS exemptions and the reporting requirement mentioned above and described below.

22. For the remainder of this preamble, the CS Affiliated QPAMs and the UBS QPAMs are collectively referred to as the Affiliated QPAMs, and the CS Related QPAMs are referred to as the Related QPAMs. This proposed exemption requires the Affiliated QPAMs and the Related QPAMs to comply with substantially the same conditions they were subject to before the Merger under the applicable individual exemption, although as discussed above, several of those conditions have been expanded and a reporting requirement has been added that is described below.

23. It is a material condition of this exemption that the Affiliated QPAMs and the Related QPAMs (including their officers, directors, agents (with very narrow exceptions), employees of such QPAMs, and CSAG and UBS employees that do work for Affiliated or Related QPAMs) must not have known, have reason to know of, nor participated in the criminal conduct of that is the subject of any of the Convictions. Each Affiliated and Related QPAM (and their officers, directors, etc.) must meet this condition with respect to each Conviction regardless of whether the misconduct occurred within the QPAM's corporate umbrella at the time it occurred. Further, any other party engaged on behalf of the Affiliated QPAMs and Related QPAMs who had responsibility for or exercised authority in connection with the management of plan assets must not have known, had reason to know of, nor participated in the criminal conduct that is the subject of any of the Convictions. Again, each Affiliated and Related QPAM (and their officers, directors, etc.) must comply with this prohibition, regardless of whether the criminal misconduct occurred within the QPAM's corporate umbrella at the time the Conviction occurred.

24. The protective conditions contained in this proposed exemption include a requirement that precludes each Affiliated QPAM from currently and in the future employing or knowingly engaging any of the individuals who participated in the criminal conduct of an entity that is the subject of any of the Convictions (i.e., UBS and UBS Securities Japan, UBS France, CSG, CSAG, and CSSEL; hereinafter, a Misconduct Entity). This means that no individual who participated in criminal misconduct at a Misconduct Entity may be employed by any Affiliated QPAM, regardless of whether the Misconduct Entity was outside the QPAM's corporate umbrella at the time of the misconduct.

25. Under this exemption, no Affiliated QPAM may use its authority or influence to direct a Covered Plan to enter into any transaction with a Misconduct Entity, or to engage a Misconduct Entity to provide any service to such Covered Plan, regardless of

whether such transaction or service may otherwise be within the scope of relief provided by an administrative or statutory exemption. In other words, no Affiliated QPAM may enter into a transaction on behalf of a Covered Plan with any Misconduct Entity. Further, other than with respect to employee benefit plans maintained or sponsored for its own employees or the employees of an affiliate, a Misconduct Entity may not act as a fiduciary within the meaning of ERISA section 3(21)(A)(i) or (iii), or Code section 4975(e)(3)(A) and (C), with respect to Covered Plan assets.

26. Each Affiliated QPAM must continue to maintain, adjust to the extent necessary, implement, and follow written policies and procedures (the Policies) that are reasonably designed to ensure that: (a) the asset management decisions of the Affiliated QPAM are conducted independently of each Misconduct Entity's corporate management and business activities; (b) the Affiliated QPAMs fully comply with ERISA's fiduciary duties and with ERISA's and the Code's prohibited transaction provisions; (c) the Affiliated QPAMs do not knowingly participate in any other person's violation of ERISA or the Code with respect to Covered Plans; (d) any filings or statements made by the Affiliated QPAMs to regulators on behalf of, or in relation to, Covered Plans are materially accurate and complete; (e) the Affiliated QPAMs do not make material misrepresentations or omit material information in their communications with such regulators, or in their communications with Covered Plans; and (f) the Affiliated QPAMs comply with the terms of the exemption.

27. This proposed exemption requires each Affiliated QPAM to maintain, adjust to the extent necessary, and implement a training program (the Training) that will be conducted at least annually for all relevant asset/portfolio management, trading, legal, compliance, and internal audit personnel. The Training must cover, at a minimum, the Policies, ERISA and Code compliance, ethical conduct, the consequences that would

result from not complying with the proposed exemption conditions, and the requirement to promptly report wrongdoing.

28. This proposed exemption requires each Affiliated QPAM to engage an independent auditor annually to evaluate the adequacy of, and the QPAM's compliance with, the Policies and Training required by the exemption. The independent auditor must be prudently selected by the Affiliated QPAMs and have appropriate technical training and proficiency with ERISA and the Code to perform the tasks required by the exemption. The Affiliated QPAMs must grant the auditor unconditional access to their business, and the auditor's engagement must specifically require the auditor to test each Affiliated QPAM's operational compliance with the Policies and Training.

29. The independent auditor must issue a written audit report (the Audit Report) to CSAG, UBS and the Affiliated QPAM to which the audit applies, that describes the procedures performed by the auditor in connection with its examination.⁷ Further, the Affiliated QPAMs must promptly address any instance of noncompliance identified by the auditor, and must promptly address or prepare a written plan of action to address any determination as to the adequacy of the Policies and Training and the auditor's recommendations, if any, with respect to strengthening the Policies and Training of the respective Affiliated QPAM. The Audit Report must be provided to the Department by the Affiliated QPAM, and the Department will make the Audit Report part of the public record regarding this one-year exemption.

30. This proposed exemption further requires the General Counsel, or one of the three most senior executive officers of the Affiliated QPAM to which the Audit Report applies, to certify in writing and under penalty of perjury that the officer has reviewed the Audit Report and the exemption, and the Affiliated QPAM has addressed, corrected, and

⁷ CSAG must provide the audit to UBS Board and if a CS Affiliated QPAM is not in operation at the time of certification, the report must be certified by UBS (see operative (i)(7) and (8)).

remedied (or has an appropriate written plan to address) any identified instance of noncompliance or inadequacy regarding the Policies and Training identified in the Audit Report.

31. With respect to any arrangement, agreement, or contract between an Affiliated QPAM and a Covered Plan, this proposal requires each Affiliated QPAM to agree and warrant: (a) to comply with ERISA and the Code, including the standards of prudence and loyalty set forth in ERISA section 404; (b) to refrain from engaging in prohibited transactions that are not otherwise exempt; (c) to indemnify and hold harmless the Covered Plan for any actual losses resulting directly from, among other things, the Affiliated QPAM's violation of ERISA's fiduciary duties; (d) with narrow exceptions, to not restrict the ability of such Covered Plan to terminate or withdraw from its arrangement with the Affiliated QPAM with respect to any investment in a separately managed account or pooled fund subject to ERISA and managed by such QPAM; (e) with narrow exceptions, to not impose any fees, penalties, or charges for such termination or withdrawal; and (f) to not include exculpatory provisions disclaiming or otherwise limiting the liability of the Affiliated QPAM for a violation of such agreement's terms.

32. Each Affiliated QPAM must provide a notice of its obligations under this exemption to each applicable Covered Plan. Each Affiliated QPAM also must provide to each applicable sponsor and beneficial owner of a Covered Plan a copy of the proposal and final notice of the exemption as published in the *Federal Register*, a separate summary describing the facts that led to each Conviction (the Summary), and a prominently displayed statement (the Statement) that each Conviction each results in a failure to meet a condition in PTE 84-14 and an individual exemption, which must be identified.

33. This proposed exemption requires each Affiliated QPAM to maintain a designated senior compliance officer (the Compliance Officer) who will be responsible

for compliance with the Policies and Training requirements described in this proposed exemption. The Compliance Officer must conduct a review, for the twelve-month period specified below (the Exemption Review), to determine the adequacy and effectiveness of the implementation of the Policies and Training and issue a written report (the Exemption Report) on the findings.

34. This proposed exemption requires UBS to impose internal procedures, controls, and protocols on each Misconduct Entity to reduce the likelihood of any recurrence of conduct that is the subject of the Convictions.

35. Additional New Conditions. This proposed exemption requires UBS to submit a written report to the Department every 120 days following the merger of UBS and Credit Suisse that provides updates regarding the progress of the Merger. This report must also be provided to Covered Plan fiduciaries (including via an electronic link). Additionally, in its first report to the Department, UBS must: (1) identify the QPAMs using this exemption as the date of the Report; (2) provide details regarding the extent to which the CS Affiliated QPAMs have been integrated into UBS's operations and any other relevant changes with respect to any QPAMs that are using this exemption; (3) any other changes, whether operational or otherwise, that impact any requirements under this exemption. As noted above, the first Merger Report must identify any material omission and/or error set forth in this Summary of Facts and Representations.

Further, the proposed exemption clarifies that the “best knowledge” standard described herein and used elsewhere in the exemption includes matters that are known to the applicable individual or should be known to such individual upon the exercise of such individual’s due diligence required under the circumstances. The Department further notes that, with respect to an entity other than a natural person, the term “best knowledge” includes matters that are known to the directors and officers of the entity or

should be known to such individuals upon the exercise of such individuals' due diligence required under the circumstances.

Statutory Findings

36. ERISA section 408(a) provides, in part, that the Department may not grant an exemption unless the Department finds that the exemption is administratively feasible, in the interest of affected plans and of their participants and beneficiaries, and protective of the rights of such participants and beneficiaries. These criteria are discussed below.

37. "*Administratively Feasible.*" The Department has tentatively determined that the proposal is administratively feasible, because among other things, a qualified independent auditor will be engaged by the Affiliated QPAM to perform an in-depth annual audit covering each Affiliated QPAM's compliance with the terms of the exemption, and a corresponding written audit report will be provided to the Department and be made available to the public. Further, detailed periodic reports will be made to the Department and to Covered Plan fiduciaries.

38. "*In the interest of.*" The Department has tentatively determined that the proposed exemption is in the interests of the participants and beneficiaries of affected Covered Plans. The Department understands based on representations, that if the requested exemption is denied, Covered Plans may be forced to find other managers, at significant costs to the Covered Plans, including the costs associated with terminating, unwinding, or modifying existing transactions. It is also the understanding of the Department that ineligibility under Section I(g) of PTE 84-14 would deprive the Covered Plans of the investment management services that these plans expected to receive when they appointed these managers and could result in the termination of relationships that the fiduciaries of the Covered Plans have determined to be in the best interests of those plans, even after the disclosures of the earlier convictions pursuant to the individual exemptions the managers previously received.

39. *“Protective of.”* The Department has tentatively determined that the proposed exemption is protective of the interests of the participants and beneficiaries of affected Covered Plans. As described above, the proposed exemption imposes a suite of affirmative requirements and obligations upon the QPAMs that include but are not limited to: (a) the maintenance of the Policies; (b) the maintenance of the Training; (c) a robust audit conducted by a qualified independent auditor; (d) the provision of certain agreements and warranties on the part of the Affiliated QPAMs; (e) specific notices and disclosures concerning the circumstances necessitating the need for exemptive relief and the Affiliated QPAMs’ obligations under this proposed exemption; and (f) the designation of a Compliance Officer with responsibility to ensure compliance with the Policies and Training requirements under this proposed exemption, and the Compliance Officer’s completion of an Exemption Review and corresponding Exemption Report. The Department notes that this exemption includes all conditions imposed upon Credit Suisse and UBS in their most recent individual exemptions, and expands upon several of them, and includes also certain stronger conditions that the Department has included in its most recent QPAM exemptions.

Summary

40. This proposed one-year exemption provides relief from certain of the restrictions set forth in ERISA section 406 and Code Section 4975(c)(1). No relief or waiver of a violation of any other law is provided by the exemption. The relief in this proposed one-year exemption would terminate immediately if, among other things, an entity within the UBS corporate structure is convicted of any crime covered by Section I(g) of PTE 84-14 (other than a Conviction). While such an entity could request a new exemption in that event, the Department is not obligated to grant the request. Consistent with this proposed exemption, the Department’s consideration of additional exemptive

relief is subject to the findings required under ERISA section 408(a) and Code section 4975(c)(2).

41. When interpreting and implementing this exemption, the Applicant and the relevant QPAM should resolve any ambiguities considering the exemption's protective purposes. To the extent additional clarification is necessary, these persons or entities should contact EBSA's Office of Exemption Determinations, at 202-693-8540.

42. Based on the conditions that are included in this proposed exemption, the Department has tentatively determined that the relief sought by the Applicant would satisfy the statutory requirements for an individual exemption under ERISA Section 408(a) and Code Section 4975(c)(2).

NOTICE TO INTERESTED PERSONS

UBS will provide notice of this proposed exemption to its Covered Plan clients by email within two business days after the publication of the notice of proposed exemption in the Federal Register. CSAM will provide notice of this proposed exemption to its Covered Plan clients via overnight carrier within one business day after the publication of the notice of proposed exemption in the Federal Register. Written comments and hearing requests are due within six days after publication of the notice of proposed exemption in the Federal Register. All comments will be made available to the public.

Warning:

If you submit a comment, EBSA recommends that you include your name and other contact information in the body of your comment, but DO NOT submit information that you consider to be confidential, or otherwise protected (such as Social Security number or an unlisted phone number) or confidential business information that you do not want publicly disclosed. All comments may be posted on the internet and can be retrieved by most internet search engines.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of ERISA and/or Code section 4975(c)(2) does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of ERISA and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of ERISA section 404, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with ERISA section 404(a)(1)(B); nor does it affect the requirement of Code section 401(a) that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under ERISA section 408(a) and/or Code section 4975(c)(2), the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of ERISA and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

PROPOSED ONE-YEAR EXEMPTION

The Department is considering granting this one-year exemption under the authority of ERISA section 408(a) and Internal Revenue Code (or Code) section 4975(c)(2), and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (76 FR 66637, 66644, October 27, 2011).⁸ Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of proposed exemption is issued solely by the Department.

SECTION I. DEFINITIONS

(a) Names of Certain Corporate Entities:

(1) The term “CSG” means Credit Suisse Group AG, a publicly-traded corporation organized under the laws of Switzerland.

(2) The term “CSAG” means Credit Suisse AG and is 100% owned by CSG.

(3) The term “CSAM Ltd.” means Credit Suisse Asset Management Limited and is a Credit Suisse asset management affiliate, together with CSSAM LLC are the CS Affiliated QPAMs.

(4) The term “CSSAM LLC” means Credit Suisse Asset Management, LLC and is a Credit Suisse asset management affiliate, together with CSAM Ltd. are the CS Affiliated QPAMs.

(5) The term “CSSEL” means Credit Suisse Securities (Europe) Limited and is headquartered in London, United Kingdom and indirectly a wholly owned subsidiary of

⁸ For purposes of this one-year exemption, references to ERISA section 406, unless otherwise specified, should be read to refer as well to the corresponding provisions of Code section 4975.

CSG.

(6) The term “UBS” means UBS AG, a publicly traded corporation organized under the laws of Switzerland.

(7) The term “UBS Americas” means UBS Asset Management (Americas) Inc. and is one of the four UBS affiliates and is wholly owned by UBS Americas, Inc., a wholly owned subsidiary of UBS AG.

(8) The term “UBS France” means UBS (France) S.A. and is a wholly owned subsidiary of UBS incorporated under the laws of France.

(9) The term “UBS Hedge Fund Solutions LLC” was formerly known as UBS Alternative and Quantitative Investments, LLC is one of four UBS affiliates and is wholly owned by UBS Americas Holding LLC, a wholly owned subsidiary of UBS AG.

(10) The term “UBS O'Connor LLC” is one of four UBS affiliates and is wholly owned by UBS Americas Holding LLC, a wholly owned subsidiary of UBS AG.

(11) The term “UBS Realty Investors LLC” is one of the four UBS affiliates and is wholly owned by UBS Americas, Inc., a wholly owned subsidiary of UBS AG.

(12) The term “UBS Securities Japan” means UBS Securities Japan Co. Ltd, a wholly owned subsidiary of UBS incorporated under the laws of Japan.

(b) The term “Affiliated QPAM” means: (1) the “CS Affiliated QPAMS,” which are Credit Suisse Asset Management, LLC (“CSAM LLC”) and Credit Suisse Asset Management Limited (“CSAM Ltd.”); and (2) the “UBS QPAMs,” which are UBS Asset Management (Americas) Inc., UBS Realty Investors LLC, UBS Hedge Fund Solutions LLC, UBS O'Connor LLC, and any future entity within the Asset Management or the Global Wealth Management Americas U.S. divisions of UBS that qualifies as a “qualified professional asset manager” (as defined in Section VI(a) of PTE 84-14) and that relies on the relief provided by PTE 84-14, and with respect to which UBS is an

“affiliate” (as defined in Part VI(d) of PTE 84-14). The term Affiliated QPAM excludes a Misconduct Entity.

(c) The term “Convictions” means (1) the judgment of conviction against CSAG for one count of conspiracy to violate section 7206(2) of the Internal Revenue Code in violation of Title 18, United States Code, Section 371, that was entered in the District Court for the Eastern District of Virginia in Case Number 1:14-cr-188-RBS, on November 21, 2014 (the “CSAG Conviction”); (2) the judgment of conviction against CSSEL in Case Number 1:21-cr-00520-WFK (the “CSSEL Conviction”); (3) the judgment of conviction against UBS Securities Japan Co. Ltd. in case number 3:12-cr-00268-RNC in the U.S. District Court for the District of Connecticut for one count of wire fraud in violation of Title 18, United States Code, sections 1343 and 2 in connection with submission of YEN London Interbank Offered Rates and other benchmark interest rates; (4) the judgment of conviction against UBS in case number 3:15-cr-00076-RNC in the U.S. District Court for the District of Connecticut for one count of wire fraud in violation of Title 18, United States Code, Sections 1343 and 2 in connection with UBS's submission of Yen London Interbank Offered Rates and other benchmark interest rates between 2001 and 2010; and (5) the judgment of conviction on February 20, 2019, against UBS and UBS France in case Number 1105592033 in the French First Instance Court (the 2019 French Conviction).

(d) The term “Covered Plan” means a plan subject to Part IV of Title I of ERISA (an “ERISA-covered plan”) or a plan subject to Code section 4975 (an “IRA”), in each case, with respect to which an Affiliated QPAM relies on PTE 84-14, or with respect to which an Affiliated QPAM (or any CSAG or UBS affiliate) has expressly represented that the manager qualifies as a QPAM or relies on PTE 84-14. A Covered Plan does not include an ERISA-covered plan or IRA to the extent the Affiliated QPAM has expressly disclaimed reliance on QPAM status or PTE 84-14 in entering into a contract,

arrangement, or agreement with the ERISA-covered plan or IRA. Notwithstanding the above, an Affiliated QPAM may disclaim reliance on QPAM status or PTE 84-14 in a written modification of a contract, arrangement, or agreement with an ERISA-covered plan or IRA, where: the modification is made in a bilateral document signed by the client; the client's attention is specifically directed toward the disclaimer; and the client is advised in writing that, with respect to any transaction involving the client's assets, the Affiliated QPAM will not represent that it is a QPAM, and will not rely on the relief described in PTE 84-14.

(e) The term “Exemption Period” means the one-year period that begins on the closing date of the acquisition of CSAG by UBS (hereinafter, the Merger).

(f) The term “FX Misconduct” means the conduct engaged in by UBS personnel described in Exhibit 1 of the Plea Agreement (Factual Basis for Breach) entered into between UBS and the Department of Justice Criminal Division, on May 20, 2015, in connection with Case Number 3:15-cr-00076-RNC filed in the US District Court for the District of Connecticut.

(g) The term “Misconduct Entity” means an entity subject to one of the Convictions described above, i.e., UBS, UBS Securities Japan, UBS France, CSAG and CSSEL.

(h) The term “Related QPAM” means any current or future “qualified professional asset manager” (as defined in Section VI(a) of PTE 84-14) that relies on the relief provided by PTE 84-14, and with respect to which CS or UBS owns a direct or indirect five (5) percent or more interest, but with respect to which a Misconduct Entity is not an “affiliate” (as defined in section VI(d)(1) of PTE 84-14) The term “Related QPAM” excludes a Misconduct Entity.

(i) The term “best knowledge,” “to the best of one’s knowledge,” “best knowledge at that time,” and other similar “best knowledge” terms shall include matters

that are known to the applicable individual or should be known to such individual upon the exercise of such individual's due diligence required under the circumstances, and, with respect to an entity other than a natural person, such term includes matters that are known to the directors and officers of the entity or should be known to such individuals upon the exercise of such individuals' due diligence required under the circumstances.

SECTION II. COVERED TRANSACTIONS

If this proposed exemption is granted, the Affiliated QPAMs and the Related QPAMs would not be precluded from relying on the exemptive relief provided by Prohibited Transaction Class Exemption 84-14 (PTE 84-14)⁹ during the Exemption Period, notwithstanding the "Convictions," provided that the definitions in Section I and the conditions in Section III are satisfied.

SECTION III. CONDITIONS

(a) The Affiliated QPAMs and the Related QPAMs (including their officers, directors, agents other than the Misconduct Entities, employees of such QPAMs, and employees of Misconduct Entities that do work for Affiliated or Related QPAMs described in subparagraph (d) below) did not know or did not have reason to know of and did not participate in the conduct underlying the Convictions and the FX Misconduct. Further, any other party engaged on behalf of the Affiliated QPAMs and the Related QPAMs who had responsibility for, or exercised authority in connection with, the management of plan assets did not know or have reason to know of and did not participate in the criminal conduct underlying the Convictions described in Section I(c)(1) and (2) and the 2019 French Conviction.

⁹ 49 FR 9494 (March 13, 1984), as corrected at 50 FR 41430, (Oct. 10, 1985), as amended at 70 FR 49305 (Aug. 23, 2005), and as amended at 75 FR 38837 (July 6, 2010).

For all purposes of this exemption, the “conduct” of any person or entity that is the “subject of the Convictions” encompasses any misconduct of CSAG, CSSEL, UBS, UBS France, UBS Securities Japan, and/or their personnel: (i) that is described in Exhibit 3 to the Plea Agreement entered into between UBS and the Department of Justice Criminal Division, on May 20, 2015, in connection with case number 3:15-cr-00076-RNC; (ii) that is described in Exhibits 3 and 4 to the Plea Agreement entered into between UBS Securities Japan and the Department of Justice Criminal Division, on December 19, 2012, in connection with case number 3:12-cr-00268-RNC; (iii) that is the basis of the 2019 French Conviction; and (iv) that is the subject of the CSAG and CSSEL convictions described in Section I(c)(1) and (c)(2); and for purposes of the exemption as well as the avoidance of doubt, the term “participate in” (as included paragraph (c) below), refers not only to active participation in the criminal conduct but includes an individual or entity’s knowledge or approval of the criminal conduct, without taking active steps to prohibit such conduct, such as reporting the conduct to the individual’s supervisors, and to the Board of Directors.

(b) The Affiliated QPAMs and the Related QPAMs (including their officers, directors, agents other than the Misconduct Entities, employees of such QPAMs, and CSAG employees described in subparagraph (d)(3) below) did not receive direct compensation, or knowingly receive indirect compensation, in connection with the criminal conduct of that is the subject of the Convictions and the UBS FX Misconduct. Further, any other party engaged on behalf of the Affiliated QPAMs and the Related QPAMs who had responsibility for, or exercised authority in connection with the management of plan assets did not receive direct compensation, or knowingly receive indirect compensation, in connection with the criminal conduct of that is the subject of the subject of the Convictions;

(c) The Affiliated QPAMs do not currently and will not in the future employ or knowingly engage any of the individuals who participated in the criminal conduct underlying the Convictions;

(d) At all times during the Exemption Period, no Affiliated QPAM will use its authority or influence to direct an “investment fund” (as defined in Section VI(b) of PTE 84-14) that is subject to ERISA or the Code and managed by such Affiliated QPAM with respect to one or more Covered Plans, to enter into any transaction with a Misconduct Entity or to engage a Misconduct Entity to provide any service to such investment fund, for a direct or indirect fee borne by such investment fund, regardless of whether such transaction or service may otherwise be within the scope of relief provided by an administrative or statutory exemption. An Affiliated QPAM will not fail this condition solely because:

(1) A CSAG (or successor) affiliate serves as a local sub-custodian that is selected by an unaffiliated global custodian that, in turn, is selected by someone other than an Affiliated QPAM or Related QPAM;

(2) CSAG (or a successor) provides only necessary, non-investment related, non-fiduciary services that support the operations of an Affiliated QPAMs, at an Affiliated QPAM’s own expense, and the Covered Plan is not required to pay any additional fee beyond its agreed-to asset management fee. This exception does not permit CSAG or its branches to provide any service to an investment fund managed by an Affiliated QPAM or Related QPAM; or

(3) CSAG (or successor) employees are double-hatted, seconded, supervised, or subject to the control of an Affiliated QPAM;

(e) Any failure of an Affiliated QPAM to satisfy Section I(g) of PTE 84-14 arose solely from the Convictions;

(f) An Affiliated QPAM or a Related QPAM did not exercise authority over the assets of any plan subject to Part 4 of Title I of ERISA (an “ERISA-covered plan”) or Code section 4975 (an “IRA”) in a manner that it knew or should have known would further the criminal conduct underlying the Convictions; or cause the Affiliated QPAM or Related QPAM or its affiliates to directly or indirectly profit from the criminal conduct underlying the Convictions;

(g) No Misconduct Entity will act as a fiduciary within the meaning of ERISA section 3(21)(A)(i) or (iii) or Code section 4975(e)(3)(A) and (C) with respect to ERISA-covered Plan and IRA assets, except that each may act as such a fiduciary (1) with respect to employee benefit plans sponsored for its own employees or employees of an affiliate; or (2) in connection with securities lending services of the New York Branch of CSAG. No Misconduct Entity will be treated as violating the conditions of the exemption solely because it acted as an investment advice fiduciary within the meaning of ERISA section 3(21)(A)(ii) or Code section 4975(e)(3)(B);

(h)(1) Each Affiliated QPAM must maintain, adjust (to the extent necessary), implement, and follow the written policies and procedures described below (Policies).¹⁰ The Policies must require and must be reasonably designed to ensure that:

(i) The asset management decisions of the QPAM are conducted independently of the corporate and management and business activities of each Misconduct Entity, and without considering any fee a related local sub-custodian may receive from those decisions. This condition does not preclude an Affiliated QPAM, as defined in Section I(b)(1), from receiving publicly available research and other widely available information from a CSAG affiliate, other than CSSEL, or from a UBS affiliate;

¹⁰ This exemption does not preclude the UBS QPAMs and CS Affiliated QPAM from maintaining separate Policies provided that the Policies comply with this exemption.

(ii) The QPAM fully complies with ERISA's fiduciary duties, and with ERISA and the Code's prohibited transaction provisions, in each case as applicable with respect to each Covered Plan, and does not knowingly participate in any violation of these duties and provisions with respect to Covered Plans;

(iii) The QPAM does not knowingly participate in any other person's violation of ERISA or the Code with respect to Covered Plans;

(iv) Any filings or statements made by the QPAM to regulators, including but not limited to, the Department, the Department of the Treasury, the Department of Justice, and the Pension Benefit Guaranty Corporation, on behalf of or in relation to Covered Plans, are materially accurate and complete, to the best of such QPAM's knowledge at that time;

(v) To the best of its knowledge at that time, the QPAM does not make material misrepresentations or omit material information in its communications with such regulators with respect to Covered Plans, or make material misrepresentations or omit material information in its communications with Covered Plans; and

(vi) The QPAM complies with the terms of this one-year exemption, and CSAG complies with the terms of Section III(d)(2);

(2) Any violation of, or failure to comply with an item in subparagraphs (h)(1)(ii) through (vi), is corrected as soon as reasonably possible upon discovery, or as soon after the QPAM reasonably should have known of the noncompliance (whichever is earlier), and any such violation or compliance failure not so corrected is reported, upon the discovery of such failure to so correct, in writing. This report must be made to the head of compliance and the general counsel (or their functional equivalent) of the relevant QPAM that engaged in the violation or failure, and the independent auditor responsible for reviewing compliance with the Policies. A QPAM will not be treated as having failed to develop, implement, maintain, or follow the Policies, if it corrects any instance of

noncompliance as soon as reasonably possible upon discovery, or as soon as reasonably possible after the QPAM reasonably should have known of the noncompliance (whichever is earlier), and provided that it adheres to the reporting requirements set forth in this subparagraph (2);

(3) Each Affiliated QPAM must maintain, adjust (to the extent necessary), and implement or continue a program of training during the Exemption Period (the Training) that is conducted at least annually for all relevant Affiliated QPAM asset/portfolio management, trading, legal, compliance, and internal audit personnel.¹¹ The Training must:

(i) At a minimum, cover the Policies, ERISA and Code compliance (including applicable fiduciary duties and the prohibited transaction provisions), ethical conduct, the consequences for not complying with the conditions of this exemption (including any loss of exemptive relief provided herein), and the requirement for prompt reporting of wrongdoing; and

(ii) Be conducted by a professional who has been prudently selected and who has appropriate technical training and proficiency with ERISA and the Code to perform the tasks required by this exemption; and

(iii) Be conducted in-person, electronically, or via a website;

(i)(1) Each CS Affiliated QPAM (as defined in Section I(b)(1) submits to an audit by an independent auditor, who has been prudently selected and who has appropriate technical training and proficiency with ERISA and the Code, to evaluate the adequacy of, and each CS Affiliated QPAM's compliance with, the Policies and Training described above in Section III(h). The audit requirement must be incorporated in the Policies. The audit must cover the Exemption Period and must be completed no later than 180 days

¹¹ This exemption does not preclude an Affiliated QPAM from maintaining separate training programs provided each training program complies with this exemption.

after the Exemption Period. The prior exemption audits required pursuant to PTE 2019-07 and PTE 2022-01 must be completed for the prior period of November 21, 2021, through the beginning date of the Exemption Period of this one-year exemption within 180 days of the beginning of the Exemption Period of this one-year exemption. These prior exemption audits and coinciding audit reports can be combined into one audit and report for the prior exemption audits. The prior exemption audit report(s) must be submitted in accordance with section III(i)(9) below;

(2) Within the scope of the audit and to the extent necessary for the auditor, in its sole opinion, to complete its audit and comply with the conditions for relief described herein, and only to the extent such disclosure is not prevented by state or federal statute, or involves communications subject to attorney client privilege, each CS Affiliated QPAM and, if applicable, CSAG, will grant the auditor unconditional access to its business, including, but not limited to: its computer systems; business records; transactional data; workplace locations; training materials; and personnel. Such access is limited to information relevant to the auditor's objectives as specified by the terms of this exemption;

(3) The auditor's engagement must specifically require the auditor to determine whether each CS Affiliated QPAM has developed, implemented, maintained, and followed the Policies in accordance with the conditions of this one-year exemption, and has developed and implemented the Training, as required herein;

(4) The auditor's engagement must specifically require the auditor to test each CS Affiliated QPAM's operational compliance with the Policies and Training. In this regard, the auditor must test, for each CS Affiliated QPAM, a sample of such: (1) CS Affiliated QPAM's transactions involving Covered Plans; (2) each CS Affiliated QPAM's transactions involving CSAG affiliates that serve as a local sub-custodian. The samples

must be sufficient in size and nature to afford the auditor a reasonable basis to determine such CS Affiliated QPAM's operational compliance with the Policies and Training;

(5) For each audit, on or before the end of the relevant period described in Section III(i)(1) for completing the audits, the auditor must issue a written report (the Audit Report) to CSAG and the CS Affiliated QPAM to which the audit applies that describes the procedures performed by the auditor in connection with its examination. The auditor, at its discretion, may issue a single consolidated Audit Report that covers all the CS Affiliated QPAMs. The Audit Report must include the auditor's specific determinations regarding:

(i) The adequacy of each CS Affiliated QPAM's Policies and Training; each CS Affiliated QPAM's compliance with the Policies and Training; the need, if any, to strengthen such Policies and Training; and any instance of the respective CS Affiliated QPAM's noncompliance with the written Policies and Training described in Section III(h) above. The CS Affiliated QPAM must promptly address any noncompliance. The CS Affiliated QPAM must promptly address or prepare a written plan of action to address any determination as to the adequacy of the Policies and Training and the auditor's recommendations (if any) with respect to strengthening the Policies and Training of the respective CS Affiliated QPAM. Any action taken or the plan of action to be taken by the respective CS Affiliated QPAM must be included in an addendum to the Audit Report (such addendum must be completed before to the certification described in Section III(i)(7) below). In the event such a plan of action to address the auditor's recommendation regarding the adequacy of the Policies and Training is not completed by the time of submission of the Audit Report, the following period's Audit Report must state whether the plan was satisfactorily completed. Any determination by the auditor that a CS Affiliated QPAM has implemented, maintained, and followed sufficient Policies and Training must not be based solely or in substantial part on an absence of evidence

indicating noncompliance. In this last regard, any finding that a CS Affiliated QPAM has complied with the requirements under this subparagraph must be based on evidence that the particular CS Affiliated QPAM has actually implemented, maintained, and followed the Policies and Training required by this exemption. Furthermore, the auditor must not solely rely on the Annual Exemption Report created by the Compliance Officer, as described in Section III(o) below, as the basis for the auditor's conclusions in lieu of independent determinations and testing performed by the auditor as required by Section III(i)(3) and (4) above; and

(ii) The adequacy of the Exemption Review described in Section III(n);

(6) The auditor must notify the respective CS Affiliated QPAM of any instance of noncompliance identified by the auditor within five (5) business days after such noncompliance is identified by the auditor, regardless of whether the audit has been completed as of that date;

(7) With respect to the Audit Report, the general counsel, or one of the three most senior executive officers of the CS Affiliated QPAM or successor to which the Audit Report applies, must certify in writing, under penalty of perjury, that the officer has reviewed the Audit Report and this exemption; that, to the best of such officer's knowledge at the time, the CS Affiliated QPAM has addressed, corrected, and remedied any noncompliance and inadequacy or has an appropriate written plan to address any inadequacy regarding the Policies and Training identified in the Audit Report. This certification must also include the signatory's determination that, to the best of the officer's knowledge at the time, the Policies and Training in effect at the time of signing are adequate to ensure compliance with the conditions of this exemption, and with the applicable provisions of ERISA and the Code. Notwithstanding the above, no person, including any person referenced in the CSAG or CSSEL Statement of Facts that gave rise to the CSAG or CSSEL Plea Agreement, who knew of, or should have known of, or

participated in, any misconduct described in the CSAG or CSSEL Statement of Facts, by any party, may provide the certification required by this exemption, unless the person took active documented steps to stop the misconduct.

(8) A copy of the Audit Report must be provided to CSAG's Board of Directors or its successor and either the Risk Committee or the Audit Committee of CSAG's Board of Directors or its successor; and a senior executive officer or chairperson of either the Risk Committee or the Audit Committee must review the Audit Report for each CS Affiliated QPAM and must certify in writing, under penalty of perjury, that such person has reviewed each Audit Report. The Audit Report under this section III(i) must comply with the delivery and certification requirements in section III(j)(8) below;

(9) Each CS Affiliated QPAM provides its certified Audit Report to the Department by regular mail addressed to: Office of Exemption Determinations (OED), 200 Constitution Avenue NW, Washington, DC 20001, or via email to e-OED@dol.gov. The delivery must take place no later than 45 days following completion of the Audit Report. The Audit Report will be made part of the public record regarding this one-year exemption. Furthermore, each CS Affiliated QPAM must make its Audit Reports unconditionally available, electronically or otherwise, for examination upon request by any duly authorized employee or representative of the Department, other relevant regulators, and any fiduciary of a Covered Plan;

(10) Any engagement agreement with an auditor to perform the audit required by this exemption must be submitted to OED no later than two (2) months after the execution of such agreement;

(11) The auditor must provide the Department, upon request, for inspection and review, access to all the workpapers created and used in connection with the audit, provided such access, inspection, and review is otherwise permitted by law; and

(12) CSAG and/or the CS Affiliated QPAM must notify the Department of a change in the independent auditor no later than two (2) months after the engagement of a substitute or subsequent auditor and must provide an explanation for the substitution or change including a description of any material disputes involving the terminated auditor and CSAG and/or the CS Affiliated QPAMs;

(j)(1) Each UBS QPAM (as defined in Section I(b)(2)) submits to an audit conducted by an independent auditor, who has been prudently selected and who has appropriate technical training and proficiency with ERISA and the Code, to evaluate the adequacy of, and each UBS QPAM's compliance with, the Policies and Training described above in Section (h). The audit requirement must be incorporated in the Policies. The audit must cover the Exemption Period and it must be completed no later than 180 days after the end of the Exemption Period. The prior exemption audits required pursuant to PTE 2020-01 must be completed for the prior periods of: (1) March 20, 2022 through March 19, 2023; and (2) March 20, 2023 through the beginning date of the Exemption Period for this one-year exemption, and each must be provided within 180 days of the beginning of the Exemption Period. These prior exemption audits and coinciding audit reports can be combined into one audit and report for the prior exemption audits. The prior exemption audit report(s) must be submitted in accordance with section III(j)(9) below;

(2) Within the scope of the audit and to the extent necessary for the auditor, in its sole opinion, to complete its audit and comply with the conditions for relief described herein, and only to the extent such disclosure is not prevented by state or federal statute, or involves communications subject to attorney–client privilege, each UBS QPAM and, if applicable, UBS, will grant the auditor unconditional access to its business, including, but not limited to: its computer systems; business records; transactional data; workplace

locations; training materials; and personnel. Such access is limited to information relevant to the auditor's objectives as specified by the terms of this exemption;

(3) The auditor's engagement must specifically require the auditor to determine whether each UBS QPAM has developed, implemented, maintained, and followed the Policies in accordance with the conditions of this one-year exemption, and has developed and implemented the Training, as required herein;

(4) The auditor's engagement must specifically require the auditor to test each UBS QPAM's operational compliance with the Policies and Training. In this regard, the auditor must test, for each UBS QPAM, a sample of such UBS QPAM's transactions involving Covered Plans, sufficient in size and nature to afford the auditor a reasonable basis to determine such UBS QPAM's operational compliance with the Policies and Training;

(5) For the audit, on or before the end of the relevant period described in Section I(k)(1) for completing the audit, the auditor must issue a written report (the Audit Report) to UBS and the UBS QPAM to which the audit applies that describes the procedures performed by the auditor in connection with its examination. The auditor, at its discretion, may issue a single consolidated Audit Report that covers all the UBS QPAMs. The Audit Report must include the auditor's specific determinations regarding:

(i) The adequacy of each UBS QPAM's Policies and Training; each UBS QPAM's compliance with the Policies and Training; the need, if any, to strengthen such Policies and Training; and any instance of the respective UBS QPAM's noncompliance with the written Policies and Training described in Section III(h) above. The UBS QPAM must promptly address any noncompliance. The UBS QPAM must promptly address or prepare a written plan of action to address any determination as to the adequacy of the Policies and Training and the auditor's recommendations (if any) with respect to strengthening the Policies and Training of the respective UBS QPAM.

Any action taken or the plan of action to be taken by the respective UBS QPAM must be included in an addendum to the Audit Report (such addendum must be completed prior to the certification described in Section III(j)(7) below). In the event such a plan of action to address the auditor's recommendation regarding the adequacy of the Policies and Training is not completed by the time of submission of the Audit Report, the following period's Audit Report must state whether the plan was satisfactorily completed. Any determination by the auditor that a UBS QPAM has implemented, maintained, and followed sufficient Policies and Training must not be based solely or in substantial part on an absence of evidence indicating noncompliance. In this last regard, any finding that a UBS QPAM has complied with the requirements under this subparagraph must be based on evidence that each UBS QPAM has implemented, maintained, and followed the Policies and Training required by this exemption. Furthermore, the auditor must not solely rely on the Exemption Report created by the Compliance Officer, as described in Section I(m) below, as the basis for the auditor's conclusions in lieu of independent determinations and testing performed by the auditor as required by Section III(j)(3) and (4) above; and

(ii) The adequacy of the Exemption Review described in Section III(n);

(6) The auditor must notify the respective UBS QPAM of any instance of noncompliance identified by the auditor within five (5) business days after such noncompliance is identified by the auditor, regardless of whether the audit has been completed as of that date;

(7) With respect to the Audit Report, the General Counsel, or one of the three most senior executive officers of the UBS QPAM to which the Audit Report applies, must certify in writing, under penalty of perjury, that the officer has reviewed the Audit Report and this exemption; that, to the best of such officer's knowledge at the time, such

UBS QPAM has addressed, corrected, and remedied any noncompliance and inadequacy or has an appropriate written plan to address any inadequacy regarding the Policies and Training identified in the Audit Report. Such certification must also include the signatory's determination that, to the best of such officer's knowledge at the time, the Policies and Training in effect at the time of signing are adequate to ensure compliance with the conditions of this exemption and with the applicable provisions of ERISA and the Code;

(8) The Risk Committee of UBS's Board of Directors is provided a copy of the Audit Report; and a senior executive officer of UBS's Compliance and Operational Risk Control function must review the Audit Report for each UBS QPAM and must certify in writing, under penalty of perjury, that such officer has reviewed the Audit Report;

(9) Each UBS QPAM provides its certified Audit Report, by regular mail to: Office of Exemption Determinations (OED), 200 Constitution Avenue NW, Washington, DC 20001; or via email to e-OED@dol.gov. This delivery must take place no later than 45 days following completion of the Audit Report. The Audit Reports will be made part of the public record regarding this five-year exemption. Furthermore, each UBS QPAM must make its Audit Reports unconditionally available, electronically or otherwise, for examination upon request by any duly authorized employee or representative of the Department, other relevant regulators, and any fiduciary of a Covered Plan;

(10) Any engagement agreement with an auditor to perform the audit required by this exemption that is entered into subsequent to the effective date of this exemption must be submitted to OED no later than two months after the execution of such agreement;

(11) The auditor must provide the Department, upon request, for inspection and review, access to all the workpapers created and used in connection with the audit, provided such access and inspection is otherwise permitted by law; and

(12) UBS must notify the Department of a change in the independent auditor no later than two months after the engagement of a substitute or subsequent auditor and must provide an explanation for the substitution or change including a description of any material disputes between the terminated auditor and UBS;

(k) As of the effective date of this one-year exemption, with respect to any arrangement, agreement, or contract between an Affiliated QPAM and a Covered Plan, the QPAM agrees and warrants to Covered Plans:

(1) To comply with ERISA and the Code, as applicable with respect to such Covered Plan; to refrain from engaging in prohibited transactions that are not otherwise exempt (and to promptly correct any prohibited transactions); and to comply with the standards of prudence and loyalty set forth in ERISA Section 404 with respect to each such ERISA-covered plan and IRA to the extent that ERISA Section 404 is applicable;

(2) To indemnify and hold harmless the Covered Plan for any actual losses resulting directly from the QPAM's violation of ERISA's fiduciary duties, as applicable, and of the prohibited transaction provisions of ERISA and the Code, as applicable; a breach of contract by the QPAM; or any claim arising out of the failure of such QPAM to qualify for the exemptive relief provided by PTE 84-14 as a result of a violation of Section I(g) of PTE 84-14, other than a Conviction covered under this exemption. This condition applies only to actual losses caused by the QPAM's violations. The term Actual Losses includes, but is not limited to, losses and related costs arising from unwinding transactions with third parties and from transitioning Plan assets to an alternative asset manager as well as costs associated with any exposure to excise taxes under Code section 4975 as a result of a QPAM's inability to rely upon the relief in the QPAM Exemption;

(3) Not to require (or otherwise cause) the Covered Plan to waive, limit, or qualify the liability of the QPAM for violating ERISA or the Code for engaging in prohibited transactions;

(4) Not to restrict the ability of the Covered Plan to terminate or withdraw from its arrangement with the QPAM, with respect to any investment in a separately-managed account or pooled fund subject to ERISA and managed by such QPAM, with the exception of reasonable restrictions, appropriately disclosed in advance, that are specifically designed to ensure equitable treatment of all investors in a pooled fund in the event such withdrawal or termination may have adverse consequences for all other investors. In connection with any such arrangement involving investments in pooled funds subject to ERISA entered into after the effective date of this exemption, the adverse consequences must relate to a lack of liquidity of the underlying assets, valuation issues, or regulatory reasons that prevent the fund from promptly redeeming an ERISA-covered plan's or IRA's investment, and such restrictions must be applicable to all such investors and be effective no longer than reasonably necessary to avoid the adverse consequences;

(5) Not to impose any fees, penalties, or charges for such termination or withdrawal with the exception of reasonable fees, appropriately disclosed in advance, that are specifically designed to prevent generally-recognized abusive investment practices or specifically designed to ensure equitable treatment of all investors in a pooled fund in the event such withdrawal or termination may have adverse consequences for all other investors, provided that such fees are applied consistently and in a like manner to all such investors;

(6) Not to include exculpatory provisions disclaiming or otherwise limiting liability of the QPAM for a violation of such agreement's terms. To the extent consistent with ERISA Section 410, however, this provision does not prohibit disclaimers for liability caused by an error, misrepresentation, or misconduct of a plan fiduciary or other

party hired by the plan fiduciary who is independent of UBS (and affiliates) or CSAG (and affiliates), or damages arising from acts outside the control of the Affiliated QPAM; and

(7) Within 120 days after the effective date of this one-year exemption, each QPAM must provide a notice of its obligations under this Section III(k) to each Covered Plan. For prospective Covered Plans that enter into a written asset or investment management agreement with a QPAM on or after a date that is 120 days after the effective date of this exemption, the QPAM must agree to its obligations under this Section III(k) in an updated investment management agreement between the QPAM and such clients or other written contractual agreement. Notwithstanding the above, a QPAM will not violate the condition solely because a Covered Plan refuses to sign an updated investment management agreement. For new Covered Plans that were provided an investment management agreement prior to the effective date of this exemption, returning it within 120 days after the effective date of this exemption, and that signed investment management agreement requires amendment to meet the terms of the exemption, the QPAM may provide the new Covered Plan with amendments that need not be signed with any documents required by this subsection (k) within ten (10) business days after receipt of the signed agreement.

(l) Within 60 days after the effective date of this one-year exemption, each Affiliated QPAM provides notice of the proposed and final exemption as published in the *Federal Register*, along with a summary describing the facts that led to the Convictions (the Summary), which has been submitted to the Department, and a prominently displayed statement (the Statement) that the Convictions result in a failure to meet a condition in PTE 84-14, to each sponsor and beneficial owner of a Covered Plan that has entered into a written asset or investment management agreement with an Affiliated QPAM, or the sponsor of an investment fund in any case where an Affiliated QPAM acts

as a sub-adviser to the investment fund in which such ERISA-covered plan and IRA invests. All prospective Covered Plan clients that enter into a written asset or investment management agreement with an Affiliated QPAM after a date that is 60 days after the effective date of this exemption must receive a copy of the notice of the exemption, the Summary, and the Statement before, or contemporaneously with, the Covered Plan's receipt of a written asset or investment management agreement from the CS Affiliated QPAM or the UBS Affiliated QPAM. The notices may be delivered electronically (including by an email that has a link to the one-year exemption).

(m) The Affiliated QPAMs must comply with each condition of PTE 84-14, as amended, with the sole exception of the violation of Section I(g) of PTE 84-14 that is attributable to the Convictions. If, during the Exemption Period, an entity within the CSAG or UBS corporate structure is convicted of a crime described in Section I(g) of PTE 84-14 (other than the Convictions), relief in this exemption would terminate immediately;

(n)(1) Within 60 days after the effective date of this exemption, each QPAM must designate a senior compliance officer (the Compliance Officer) who will be responsible for compliance with the Policies and Training requirements described herein. For purposes of this condition (n), each relevant line of business within a CS Affiliated QPAM or UBS Affiliated QPAM may designate its own Compliance Officer(s). Notwithstanding the above, the appointed Compliance Officer may not be a person who: (i) participated in the criminal conduct underlying the Convictions, or knew of, or (ii) had reason to know of, the criminal conduct without taking active documented steps to stop the misconduct;

The Compliance Officer must conduct a review of each twelve-month period of the Exemption Period (the Exemption Review), to determine the adequacy and

effectiveness of the implementation of the Policies and Training.¹² With respect to the Compliance Officer, the following conditions must be met:

(i) The Compliance Officer must be a professional who has extensive experience with, and knowledge of, the regulation of financial services and products, including under ERISA and the Code; and

(ii) The Compliance Officer must have a direct reporting line to the highest-ranking corporate officer in charge of compliance for the applicable Affiliated QPAM.

(2) With respect to the Exemption Review, the following conditions must be met:

(i) The Annual Exemption Review includes a review of the Affiliated QPAM's compliance with and effectiveness of the Policies and Training and of the following: any compliance matter related to the Policies or Training that was identified by, or reported to, the Compliance Officer or others within the compliance and risk control function (or its equivalent) during the time period; the most recent Audit Report issued pursuant to this exemption or PTE 2020-01 or PTE 2022-01; any material change in the relevant business activities of the Affiliated QPAMs; and any change to ERISA, the Code, or regulations related to fiduciary duties and the prohibited transaction provisions that may be applicable to the activities of the Affiliated QPAMs;

(ii) The Compliance Officer prepares a written report for the Exemption Review (an Exemption Report) that (A) summarizes their material activities during the prior year; (B) sets forth any instance of noncompliance discovered during the prior year, and any related corrective action; (C) details any change to the Policies or Training to

¹²Pursuant to PTE 2020-01 and PTE 2022-01 the Compliance Officer must conduct an exemption review (annual review) for each period corresponding to the audit periods set forth in those exemptions and the Compliance officer's written report submitted to the Department within three (3) months of the end of the period to which it relates. Accordingly, the final exemption review pursuant to PTE 2020-01 must cover the period March 19, 2022 through the beginning date of the Exemption Period of this one-year exemption and must be completed within three (3) months from the end of the period to which it relates. Also, the final exemption review pursuant to PTE 2022-01 must cover the period November 21, 2022 through the beginning date of the Exemption Period of this one-year exemption and must be completed within three (3) months from the end of the period to which it relates.

guard against any similar instance of noncompliance occurring again; and (D) makes recommendations, as necessary, for additional training, procedures, monitoring, or additional and/or changed processes or systems, and management's actions on such recommendations;

(iii) In the Exemption Report, the Compliance Officer must certify in writing that to the best of his or her knowledge at the time: (A) the report is accurate; (B) the Policies and Training are working in a manner which is reasonably designed to ensure that the Policies and Training requirements described herein are met; (C) any known instance of noncompliance during the prior year and any related correction taken to date have been identified in the Exemption Report; and (D) the Affiliated QPAMs have complied with the Policies and Training, and/or corrected (or are correcting) any known instances of noncompliance in accordance with Section III(h) above;

(iv) The Exemption Report must be provided to appropriate corporate officers of CSAG and UBS and to each Affiliated QPAM to which such report relates, and to the head of compliance and the general counsel (or their functional equivalent) of CSAG, UBS, the relevant Affiliated QPAM. The Exemption Report must be made unconditionally available to the independent auditor described in Section III(i) above;

(v) The Exemption Review, including the Compliance Officer's written Annual Exemption Report, must cover the Exemption Period, and The Annual Review, including the Compliance Officer's written Report, must be completed within three (3) months following the end of the period to which it relates;

(o) UBS imposes its internal procedures, controls, and protocols on each Misconduct Entity to reduce the likelihood of any recurrence of conduct that is the subject of the Convictions;

(p) Relief in this exemption will terminate on the date that is six months following the date that a U.S. regulatory authority makes a final decision that UBS or CSAG or an

affiliate of either failed to comply in all material respects with any requirement imposed by such regulatory authority in connection with the Convictions;

(q) Each Affiliated QPAM will maintain records necessary to demonstrate that the conditions of this exemption have been met for six (6) years following the date of any transaction for which the Affiliated QPAM relies upon the relief in this exemption;

(r) During the Exemption Period, UBS must: (1) immediately disclose to the Department any Deferred Prosecution Agreement (a DPA) or Non-Prosecution Agreement (an NPA) with the U.S. Department of Justice, entered into by UBS or CSAG or any of their affiliates (as defined in Section VI(d) of PTE 84-14) in connection with conduct described in Section I(g) of PTE 84-14 or section 411 of ERISA; and (2) immediately provide the Department with any information requested by the Department, as permitted by law, regarding the agreement and/or conduct and allegations that led to the agreement;

(s) Within 60 days after the effective date of this exemption, each Affiliated QPAM, in its agreements with, or in other written disclosures provided to Covered Plans, will clearly and prominently inform Covered Plan clients of their right to obtain a copy of the Policies or a description (Summary Policies) which accurately summarizes key components of the QPAM's written Policies developed in connection with this exemption. If the Policies are thereafter changed, each Covered Plan client must receive a new disclosure within six (6) months following the end of the calendar year during which the Policies were changed.¹³ With respect to this requirement, the description may be continuously maintained on a website, provided that such website link to the Policies or Summary Policies is clearly and prominently disclosed to each Covered Plan;

¹³ If the Applicant meets this disclosure requirement through Summary Policies, changes to the Policies shall not result in the requirement for a new disclosure unless, as a result of changes to the Policies, the Summary Policies are no longer accurate.

(t) An Affiliated QPAM will not fail to meet the terms of this one-year exemption solely because a different Affiliated QPAM fails to satisfy a condition for relief described in Section III(c), (d), (h), (i), (j), (k), (l), (m), (s) or (u); or if the independent auditor described in Section III(i) or (j) fails to comply with a provision of the exemption other than the requirement described in Section III(i)(11) and (j)(11), provided that such failure did not result from any actions or inactions of CSAG or UBS or its affiliates; and

(u) All the material facts and representations set forth in the Summary of Facts and Representations are true and accurate.

(v) Every 120 days following the merger of UBS and Credit Suisse, UBS must submit a written report to the Department that updates the progress of the Merger. This report must also be provided to Covered Plan fiduciaries (including via an electronic link). Additionally, in its first report to the Department, UBS must: (1) identify the QPAMs using this exemption as the date of the Report; (2) provide details regarding the extent to which the CS Affiliated QPAMs have been integrated into UBS's operations and any other relevant changes with respect to any QPAMs that are using this exemption; (3) any other changes, whether operational or otherwise, that impact any requirements under this exemption; and (4) detailed information regarding the costs to ERISA-covered Plans and IRAs (together, Covered Plans) that would arise if this one-year exemption is not renewed

Applicability Date: This exemption will be in effect for one (1) year, beginning on the date of the closing of the acquisition of CSAG by UBS.

Signed at Washington, DC, this 10th day of May 2023.

George Christopher Cosby,

Director,
U.S. Department of Labor,
Employee Benefits Security Administration,
Office of Exemption Determinations.

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